

STATEMENT OF
THE UNITED ILLUMINATING COMPANY
To
THE PLANNING AND DEVELOPMENT COMMITTEE
Re:
PROPOSED SENATE BILL 260 - AN ACT CONCERNING MUNICIPAL FEES FOR
TELECOMMUNICATION AND PUBLIC SERVICE COMPANIES

Legislative Office Building
February 18, 2009

Senator Coleman, Representative Sharkey, members of the Planning & Development Committee. The United Illuminating Company (UI) submits comments in opposition to **Proposed Senate Bill 260 - AN ACT CONCERNING MUNICIPAL FEES FOR TELECOMMUNICATION AND PUBLIC SERVICE COMPANIES.**

Proposed Senate Bill 260 would authorize municipalities to levy fees on telecommunications and public service companies for use of municipal rights of way. UI strongly opposes this Bill on both policy and legal grounds. If a municipality assessed a charge on a utility for use of the right of way, the utility would have a statutory and constitutional right to recover the full cost of the charge from its customers. Therefore, the utility would be functioning solely as a collection agent for the municipality, effectively rendering the charge a municipal tax on all the utility's customers. Moreover, if one municipality were to charge more than other municipalities, the tax would be inequitably assessed if the charge were collected from the utility's customers throughout the utility's service area. To address this inequity, the utility would request and the Department of Public Utility Control could well determine that a municipality's charge for a utility's use of right of way should be collected solely from the utility's customers located in the municipality.

Municipalities already have the right to charge utilities for the municipalities' actual cost incurred as a result of utilities' use of the right of way (administrative costs of processing an application, for example). Some municipalities also mandate police protection at all sites regardless of practical need for police presence. Utilities are also subject to certain mandates when opening streets for maintaining underground utility facilities. Most importantly, public service companies already pay significant personal and real estate tax dollars to municipalities for the public service company facilities within the municipal rights of way. It appears that SB260 is intended to allow municipalities to charge utilities not for costs incurred by the municipalities, but instead for the fact of being a utility and having facilities within the right of way, in accordance with the utilities' franchise rights. The right to locate facilities in, over or under public streets is an integral part of a utility's charter and franchise established and granted by the State. SB260 would therefore appear to be intended not only to deprive the utility of its ability to exercise its franchise rights but also to impose a use tax for exercising that right. The new municipal tax would function as an additional municipal tax on utilities' customers. The tax would undeniably

be significant as utilities own substantial facilities (wires, cables, poles) in all of the municipalities served. The amount of right of way is significantly larger in the more urban and highly populated cities and towns.

For these reasons, UI strongly opposes **Proposed Senate Bill 260 - AN ACT CONCERNING MUNICIPAL FEES FOR TELECOMMUNICATION AND PUBLIC SERVICE COMPANIES.**